

6

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALEXANDER A. LUGO,
Plaintiff,

FILED

JUN 07 2019

v.

CIVIL ACTION NO. 19-CV-1442

CARLOS DEANGELO, *et al.*,
Defendants.

KATE BAZKMAN, Clerk
By _____ Dep. Clerk

ORDER

AND NOW, this ^{6th} day of June, 2019, upon consideration of Plaintiff Alexander A. Lugo's *pro se* Complaint (ECF No. 2) and his Amended Complaint (ECF No. 9), which raise claims under 42 U.S.C. § 1983, it is **ORDERED** that:

1. Lugo's false arrest claim is **DISMISSED without prejudice** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons stated in the Court's Memorandum. Lugo may not pursue his false arrest claim unless his conviction is vacated or otherwise overturned. Only Lugo's excessive force claim shall proceed.
2. The Clerk of Court shall issue summonses. Service of the summonses, the Complaint (ECF No. 2), and the Amended Complaint (ECF No. 9), the Court's May 16, 2019 Memorandum and Order (ECF Nos. 6 and 7), and a copy of this Order and accompanying Memorandum is to be made upon the Defendants by the U.S. Marshals Service. Lugo will be required to complete USM-285 forms so that the Marshals can serve the Defendants. Failure to complete those forms may result in dismissal of this case for failure to prosecute.
3. All original pleadings and other papers submitted for consideration to the Court in this case are to be filed with the Clerk of Court. Copies of papers filed in this Court are to be served upon counsel for all other parties (or directly on any party acting *pro se*). Service may be

made by mail. Proof that service has been made is provided by a certificate of service. The certificate of service should be filed in the case along with the original papers and should show the day and manner of service. An example of a certificate of service by mail follows:

“I, (name), do hereby certify that a true and correct copy of the foregoing (name of pleading or other paper) has been served upon (name(s) of person(s) served) by placing the same in the U.S. mail, properly addressed, this (day) of (month), (year).

(Signature)”

4. Any request for court action shall be set forth in a motion, properly filed and served. The parties shall file all motions, including proof of service upon opposing parties, with the Clerk of Court. The Federal Rules of Civil Procedure and local rules are to be followed. Lugo is specifically directed to comply with Local Civil Rule 7.1 and serve and file a proper response to all motions within fourteen (14) days. Failure to do so may result in dismissal of this action.

5. Lugo is specifically directed to comply with Local Rule 26.1(f) which provides that “[n]o motion or other application pursuant to the Federal Rules of Civil Procedure governing discovery or pursuant to this rule shall be made unless it contains a certification of counsel that the parties, after reasonable effort, are unable to resolve the dispute.” Lugo shall attempt to resolve any discovery disputes by contacting defendant’s counsel directly by telephone or through correspondence.

6. No direct communication is to take place with the District Judge or United States Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk.

7. In the event a summons is returned unexecuted, it is Lugo's responsibility to ask the Clerk of Court to issue an alias summons and to provide the Clerk with the defendant's correct address, so service can be made.

8. The parties should notify the Clerk's Office when there is an address change. Failure to do so could result in court orders or other information not being timely delivered, which could affect the parties' legal rights.

BY THE COURT:


JUAN R. SANCHEZ, C.J.